



Republic of the Philippines  
Supreme Court  
Manila

EN BANC

CF SHARP CREW  
MANAGEMENT  
INCORPORATED,

Complainant,

A.C. No. 10438

Present:

- versus -

NICOLAS C. TORRES,

Respondent.

SERENO, C.J.  
CARPIO,  
VELASCO, JR.,  
LEONARDO-DE CASTRO,  
BRION,  
PERALTA,  
BERSAMIN,  
DEL CASTILLO,  
VILLARAMA, JR.,  
PEREZ,  
MENDOZA,  
REYES,  
PERLAS-BERNABE,  
LEONEN, and  
JARDELEZA, JJ.

Promulgated:

SEPTEMBER 23, 2014

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DECISION

*PER CURIAM:*

For the Court's resolution is the Complaint<sup>1</sup> dated October 30, 2008  
filed by complainant CF Sharp Crew Management Incorporated

<sup>1</sup> Rollo, pp. 2-12.

(complainant) against respondent Nicolas C. Torres (respondent), charging him with violating the Code of Professional Responsibility (CPR).

### The Facts

Complainant is a corporation duly organized and existing under Philippine laws engaged in overseas maritime employment.<sup>2</sup> It hired respondent, a medical doctor and a lawyer by profession, as its Legal and Claims Manager who was tasked, *inter alia*, to serve as its legal counsel and to oversee the administration and management of legal cases and medical-related claims instituted by seafarers against complainant's various principals. Among the cases respondent handled in his capacity as Legal and Claims Manager were the claims of seafarers Bernardo R. Mangi (Mangi), Rodelio J. Sampani (Sampani), Joseph C. Delgado (Delgado), and Edmundo M. Chua (Chua).<sup>3</sup>

In its administrative complaint, it was alleged that per respondent's request, complainant issued checks in the amounts of ₱524,000.00, ₱652,013.20, ₱145,650.00, ₱97,100.00, and ₱296,808.40 as settlement of the respective claims of Mangi, Sampani, Delgado, and Chua.<sup>4</sup> However, complainant later discovered that, save for the check in the amount of ₱145,650.00 issued to Delgado, respondent never gave the checks to the seafarers and instead, had them deposited at International Exchange Bank, Banawe, Quezon City Branch, under Account No. 003-10-06902-1.<sup>5</sup> With respect to Sampani, complainant also discovered that he only received the amounts of ₱216,936.00 and ₱8,303.00 or a total of ₱225,239.00 out of the requested amount of ₱652,013.20, through checks not issued by complainant.<sup>6</sup>

On October 30, 2008, the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline directly received the instant complaint and on even date, issued an Order<sup>7</sup> requiring respondent to file an answer, but the latter failed to do so. Neither did respondent appear in the mandatory conference scheduled on March 20, 2009 nor did he file his position paper.<sup>8</sup>

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<sup>2</sup> Id. at 2.

<sup>3</sup> Id. at 3-4 and 99-100.

<sup>4</sup> The amounts are the Philippine Peso equivalent of the following amounts claimed by the seafarers: (a) US\$10,000.00 corresponding to the ₱524,000.00 check issued to Mangi; (b) US\$12,443.00 corresponding to the ₱652,013.20 check issued to Sampani; (c) US\$5,000.00 corresponding to the ₱145,650.00 and ₱97,100.00 checks issued to Delgado; and (d) US\$5,972.00 corresponding to the ₱296,808.40 check issued to Chua. (See id. at 4-11 and 100-103.)

<sup>5</sup> See id. at 5-11 and 100-103.

<sup>6</sup> Id. at 7 and 101-102.

<sup>7</sup> Id. at 33. Issued by Director for Bar Discipline Alicia A. Risos-Vidal.

<sup>8</sup> See Order dated March 20, 2009; id. at 40.

### **The IBP's Report and Recommendation**

In a Report and Recommendation<sup>9</sup> dated August 1, 2009, the IBP Investigating Commissioner found respondent administratively liable for violating the CPR, and accordingly recommended that he be meted the penalty of suspension from the practice of law for one (1) year.<sup>10</sup>

The Investigating Commissioner found that respondent had indeed requested and was issued checks as settlement of the respective claims of Mangi, Sampani, Delgado, and Chua on the pretense that the requested amounts represented what was lawfully due them.<sup>11</sup> However, instead of giving the said checks to the named seafarers, he deposited the same at the International Exchange Bank, Banawe, Quezon City Branch, under Account No. 003-10-06902-1,<sup>12</sup> except for the check in the amount of ₱145,650.00 issued to Delgado.<sup>13</sup>

Meanwhile, respondent belatedly filed his Verified Answer (With Motion to Re-Open Investigation)<sup>14</sup> on March 24, 2010. He explained that he was not able to timely file an answer because complainant supplied a wrong address to the IBP and filed non-bailable criminal cases against him which caused his detention in a regular prison cell and, thus, his inability to comply with the IBP's directives.<sup>15</sup>

On the merits of the complaint, respondent maintained that the seafarers' claims had long been settled and that the release documents signed by the named seafarers were already in actual custody and possession of the complainant.<sup>16</sup> He further contended that he only signed the dorsal portions of the checks as a form of guaranty of their genuineness<sup>17</sup> and that he could not have encashed them as they were all payable to a particular payee.<sup>18</sup> Lastly, respondent claimed that when he resigned in August 2008, complainant forced him to sign promissory notes to reimburse certain amounts which had not been accounted for by the latter in exchange for his clearance documents.<sup>19</sup> But before he was able to settle the promissory notes, he was already arrested in connection with the criminal cases filed by complainant against him.<sup>20</sup>

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<sup>9</sup> Id. at 99-105. Penned by Commissioner Salvador B. Hababag.

<sup>10</sup> Id. at 105.

<sup>11</sup> Id. at 104.

<sup>12</sup> Id.

<sup>13</sup> Id. at 103.

<sup>14</sup> Dated March 21, 2010. (Id. at 69-77.)

<sup>15</sup> See id. at 69-72.

<sup>16</sup> Id. at 72.

<sup>17</sup> Id.

<sup>18</sup> Id. at 73.

<sup>19</sup> Id. at 74.

<sup>20</sup> Id. at 74-75.

In a Resolution<sup>21</sup> dated December 29, 2012, the IBP Board of Governors unanimously adopted and approved the aforesaid report and recommendation with modification, increasing the recommended period of suspension from the practice of law to two (2) years, and ordering respondent to return the full amount of money he received from complainant which is legally due to the seafarers, with legal interest, within thirty (30) days from receipt of notice.

Aggrieved, respondent filed a Motion for Reconsideration<sup>22</sup> on April 22, 2013 which was, however, denied in a Resolution<sup>23</sup> dated March 8, 2014.

### **The Issue Before the Court**

The essential issue in this case is whether or not respondent should be held administratively liable for violating the CPR.

### **The Court's Ruling**

After a judicious perusal of the records, the Court concurs with the findings of the IBP in its report and recommendation, except as to: (a) the recommended penalty to be imposed upon respondent; and (b) the monetary award in favor of the complainant.

It is fundamental that the relationship between a lawyer and his client is highly fiduciary and ascribes to a lawyer a great degree of fidelity and good faith.<sup>24</sup> The highly fiduciary nature of this relationship imposes upon the lawyer the duty to account for the money or property collected or received for or from his client.<sup>25</sup> This is the standard laid down by Rules 16.01 and 16.03, Canon 16 of the CPR, which read:

CANON 16 – A LAWYER SHALL HOLD IN TRUST ALL MONEYS AND PROPERTIES OF HIS CLIENT THAT MAY COME INTO HIS POSSESSION.

Rule 16.01 – A lawyer shall account for all money or property collected or received for or from the client.

Rule 16.03 – A lawyer shall deliver the funds and property of his client when due or upon demand. x x x.

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<sup>21</sup> See Notice of Resolution signed by National Secretary Nasser A. Marohomsalic; id. at 98.

<sup>22</sup> Dated April 8, 2013. (Id. at 106-116.)

<sup>23</sup> See Notice of Resolution; id. at 175.

<sup>24</sup> *Bayonla v. Reyes*, A.C. No. 4808, November 22, 2011, 660 SCRA 490, 499.

<sup>25</sup> See *Navarro v. Solidum*, A.C. No. 9872, January 28, 2014, citing *Belleza v. Macasa*, A.C. No. 7815, July 23, 2009, 593 SCRA 549, 561.

In the foregoing light, it has been held that a lawyer's failure to return upon demand the funds held by him on behalf of his client gives rise to the presumption that he has appropriated the same for his own use in violation of the trust reposed in him by his client. Such act is a gross violation of general morality as well as of professional ethics.<sup>26</sup>

In this case, the IBP Investigating Commissioner correctly found that complainant had duly proven its charges against respondent. In particular, complainant had exposed respondent's *modus operandi* of repeatedly requesting the issuance of checks purportedly for the purpose of settling seafarers' claims against the complainant's various principals, only to have such checks (except for the check in the amount of ₱145,650.00 issued to Delgado) deposited to an unauthorized bank account, particularly International Exchange Bank, Banawe, Quezon City Branch, under Account No. 003-10-06902-1. It is well-settled that "when a lawyer receives money from the client for a particular purpose, the lawyer is bound to render an accounting to the client showing that the money was spent for a particular purpose. And if he does not use the money for the intended purpose, the lawyer must immediately return the money to his client."<sup>27</sup> This, respondent failed to do.

Clearly, respondent's acts of misappropriation constitute dishonesty, abuse of trust and confidence reposed in him by the complainant, and betrayal of his client's interests which he is duty-bound to protect.<sup>28</sup> They are contrary to the mandate of Rule 1.01, Canon 1 of the CPR which provides that "[a] lawyer shall not engage in unlawful, dishonest, immoral, or deceitful conduct." Such malfeasance is not only unacceptable, disgraceful, and dishonorable to the legal profession; it also reveals a basic moral flaw that makes him unfit to practice law.<sup>29</sup>

Anent the proper penalty for respondent's acts, the Court deems it proper to modify the penalty recommended by the IBP. Jurisprudence provides that in similar cases where lawyers misappropriated their clients' money, the Court imposed upon them the ultimate penalty of disbarment from the practice of law. In *Arellano University, Inc. v. Mijares III*,<sup>30</sup> the Court disbarred the lawyer for misappropriating his client's money intended for securing a certificate of title on the latter's behalf. Similarly, in *Freeman v. Reyes*,<sup>31</sup> the same penalty was imposed upon the lawyer who misappropriated the insurance proceeds of her client's deceased husband.

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<sup>26</sup> *Adrimisin v. Javier*, 532 Phil. 639, 645-646 (2006).

<sup>27</sup> *Celaje v. Soriano*, 561 Phil. 341, 347 (2007).

<sup>28</sup> See *Garcia v. Manuel*, 443 Phil. 479 (2003).

<sup>29</sup> See *Spouses Olbes v. Diciembre*, 496 Phil. 799, 812 (2005).

<sup>30</sup> A.C. No. 8380, November 20, 2009, 605 SCRA 93.

<sup>31</sup> A.C. No. 6246, November 15, 2011, 660 SCRA 48.

As already discussed, respondent's conduct of misappropriating complainant's money has made him unfit to remain in the legal profession. He has definitely fallen below the moral bar when he engaged in deceitful, dishonest, unlawful, and grossly immoral acts.<sup>32</sup> As a member of the Bar, he is expected at all times to uphold the integrity and dignity of the legal profession and refrain from any act or omission which might lessen the trust and confidence reposed in him by the public in the fidelity, honesty, and integrity of the legal profession.<sup>33</sup> Membership in the legal profession is a privilege, and whenever it is made to appear that an attorney is no longer worthy of the trust and confidence of his clients and the public, it becomes not only the right but also the duty of the Court to withdraw the same,<sup>34</sup> as in this case. In view of the foregoing, respondent deserves the ultimate penalty of disbarment from the practice of law.

Likewise, the Court cannot concur with the IBP's recommendation regarding the return of the settlement money respondent received from complainant, considering, among others, that it was not specifically prayed for in the latter's administrative complaint and that the civil liability of respondent therefor may already be the subject of existing cases involving the same parties.

**WHEREFORE**, respondent Nicolas C. Torres is found guilty of violating Rule 1.01, Canon 1 and Rules 16.01 and 16.03, Canon 16 of the Code of Professional Responsibility. Accordingly, he is hereby **DISBARRED** from the practice of law and his name ordered **STRICKEN OFF** from the roll of attorneys.

Let a copy of this Decision be attached to respondent's record in this Court as attorney. Further, let copies of this Decision be furnished the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate them to all the courts in the country for their information and guidance.

**SO ORDERED.**



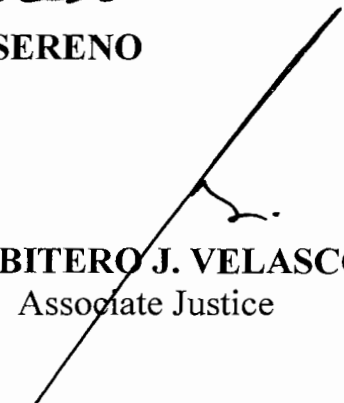
**MARIA LOURDES P. A. SERENO**

Chief Justice



**ANTONIO T. CARPIO**

Associate Justice



**PRESBITERO J. VELASCO, JR.**

Associate Justice

<sup>32</sup> *Hernandez v. Go*, 490 Phil. 420, 427 (2005).

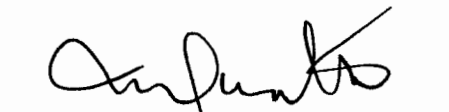
<sup>33</sup> *Id.*

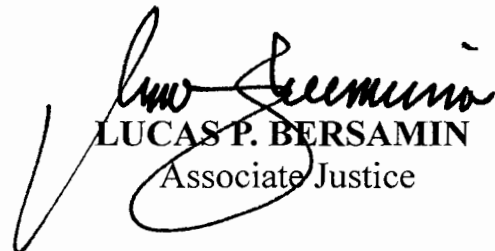
<sup>34</sup> *Id.* at 427-428.



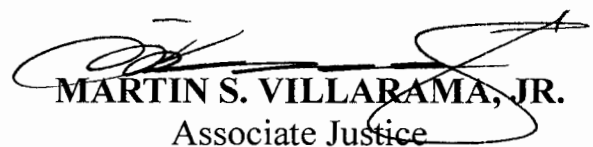
  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**ARTURO D. BRION**  
Associate Justice

  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice


  
**MARIANO C. DEL CASTILLO**  
Associate Justice

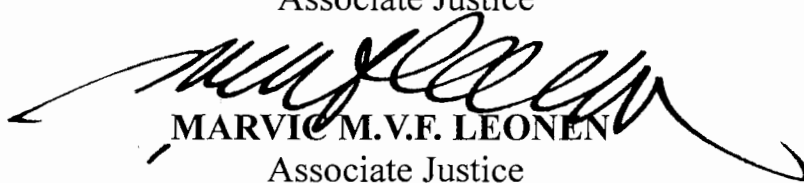
  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

  
**MARVIC M.V.F. LEONEN**  
Associate Justice

  
**FRANCIS H. JARDELEZA**  
Associate Justice

